



# House of Representatives

## **File No. 867**

General Assembly

January Session, 2001

**(Reprint of File No. 386)**

Substitute House Bill No. 7000  
As Amended by House Amendment  
Schedules "A" and "B"

Approved by the Legislative Commissioner  
June 2, 2001

### **AN ACT CONCERNING WATER DIVERSIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (a) Any person or municipality maintaining a  
2      diversion that was registered in accordance with the provisions of  
3      section 22a-368 of the general statutes and which continues to be in use  
4      as of July 1, 2001, shall report to the Commissioner of Environmental  
5      Protection on or before July 1, 2002, current operating data for such  
6      diversion. Such data shall be provided on a form developed by the  
7      Commissioner of Environmental Protection, in consultation with the  
8      Commissioners of Public Health, Public Utility Control and  
9      Agriculture. Such data shall include monthly data for the calendar  
10     years 1997 to 2001, inclusive, (1) for the actual frequency and actual  
11     rate of water withdrawals or discharges of such diversion if such  
12     diversion is metered, or (2) that estimates the withdrawals or  
13     discharges in the absence of a meter. A person or municipality  
14     maintaining a diversion exclusively for agricultural purposes may  
15     report estimated water use for the reporting period. The provisions of  
16     this subsection shall not apply to an owner or operator of an existing

17 electric generating facility utilizing fossil fuel, provided the diversion  
18 is used to comply with state and federal environmental laws, and  
19 further provided such owner or operator reports to the Commissioner  
20 of Environmental Protection an estimate of future water use necessary  
21 to comply with state and federal environmental laws.

22 (b) Any person or municipality maintaining a diversion that was  
23 eligible for registration in accordance with section 22a-368 of the  
24 general statutes but failed to so register, which diversion continues to  
25 be in use as of July 1, 2001, shall report to the commissioner, on or  
26 before July 1, 2002, the operating data for such diversion. Such data  
27 shall be provided on a form developed by the Commissioner of  
28 Environmental Protection, in consultation with the Commissioners of  
29 Public Health, Public Utility Control and Agriculture. Such data shall  
30 include (1) the location, capacity, frequency and rate of withdrawals or  
31 discharges of such diversion as of July 1, 1982, (2) a description of the  
32 water use and water system on or before July 1, 1982, including  
33 information to evidence its operation at that time, and (3) the monthly  
34 data for the calendar years 1997 to 2001, inclusive, (A) for the actual  
35 frequency and actual rate of water withdrawals or discharges of such  
36 diversion if such diversion is metered, or (B) that estimates the  
37 withdrawals or discharges in the absence of a meter. A person or  
38 municipality maintaining a diversion exclusively for agricultural  
39 purposes may report estimated water use for the reporting period in  
40 subdivision (3) of this subsection.

41 (c) Any person or municipality maintaining a diversion that was not  
42 eligible for registration in accordance with section 22a-368 of the  
43 general statutes and is not currently authorized by permit issued by  
44 the commissioner pursuant to said section, which diversion is in use as  
45 of July 1, 2001, shall report to the Commissioner of Environmental  
46 Protection on or before July 1, 2002, operating data for the diversion.  
47 Such data shall be provided on a form developed by the Commissioner  
48 of Environmental Protection, in consultation with the Commissioners  
49 of Public Health, Public Utility Control and Agriculture. Such data  
50 shall include (1) information as to when the diversion was initiated, (2)

51 a description of the water use and water system operation, and (3) the  
52 monthly data for the calendar years 1997 to 2001, inclusive, (A) for the  
53 location, capacity, actual frequency and actual rate of water  
54 withdrawals or discharges of said diversion if such diversion is  
55 metered, or (B) that estimates the withdrawals or discharges in the  
56 absence of a meter. A person or municipality maintaining a diversion  
57 used exclusively for agricultural purposes may report estimated water  
58 use for the reporting period in subdivision (3) of this subsection.

59 (d) Information reported by a person or municipality for the  
60 purposes of subsection (b) or (c) of this section shall not be used by the  
61 Commissioner of Environmental Protection to order the payment of  
62 civil penalties pursuant to section 22a-6b of the general statutes and  
63 subsection (b) of section 22a-376 of the general statutes provided the  
64 person or municipality has filed a permit application pursuant to  
65 section 22a-368 of the general statutes on or before July 1, 2003. This  
66 subsection shall not apply to any information the commissioner can  
67 document independent of a submission pursuant to this section.  
68 Failure to report the information required in this section may result in  
69 civil penalties in accordance with section 22a-6b of the general statutes  
70 and subsection (b) of section 22a-376 of the general statutes.

71 Sec. 2. This act shall take effect from its passage.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

**State Impact:** Minimal

**Affected Agencies:** Departments of Environmental Protection, Public Health, Public Utility Control and Agriculture

**Municipal Impact:** Minimal

### **Explanation**

**State Impact:**

It is anticipated that the current staff of the Department of Environmental Protection's (DEP) water diversion program can handle the additional administrative workload within budgetary resources. The DEP will have to send out forms to collect the data on the 1,842 water diversions. It is estimated that the increase in work will divert one employee, for less than two weeks, away from current duties. No net impact is anticipated due to the provision in the bill exempting entities from the penalties.

Any increase in the workloads of the Departments of Public Health, Public Utility Control or Agriculture due to consultation with DEP on development of a form is anticipated to be minimal and within normal budgetary resources.

**Municipal Impact:**

It is estimated that municipalities that must report to the

Commissioner of the DEP by July 1, 2002 will minimally increase their administrative workloads, which can be accomplished within their existing resources. The information requested is anticipated to be available.

House "A" is eliminated by House "B" which adds agencies that must consult with DEP on forms minimally increasing their workloads, and creates different requirements for different reporting categories and extends the deadline for reporting which doesn't change the fiscal impact from the file.

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**OLR Amended Bill Analysis**

sHB 7000 (as amended by House "A" and "B")\*

**AN ACT CONCERNING WATER DIVERSIONS.****SUMMARY:**

This bill requires companies, municipalities, and other entities that withdraw substantial amounts of water from wells or surface waters to provide the Department of Environmental Protection (DEP) with information about their water diversions. It has different reporting requirements for (1) entities that registered their diversions with DEP before July 1, 1983 as required by law; (2) those that were eligible for registration but failed to do so; and (3) those that were not eligible for registration and therefore required to obtain a DEP permit for their diversions, but failed to do so. The reporting requirements for registrants do not apply to fossil fuel power plants that meet certain conditions.

DEP cannot use the data supplied under the latter two provisions to impose civil penalties under existing law if the entity applies for a permit by July 1, 2003. But it can impose civil penalties if it has independent information of the entity's violation of the law. An entity that fails to file the data required by the bill may be subject to these civil penalties. Violation of the requirements of the water diversion laws carries a civil penalty of up to \$1,000 per day.

The data must be reported by July 1, 2002, on a form developed by DEP in consultation with the departments of Agriculture, Public Health, and Public Utility Control.

\*House Amendment "A" replaces the original bill, which required (1) registrants to provide DEP with updated information about their diversions and (2) entities that failed to register and had not obtained a DEP permit to register by January 1, 2002 in order to avoid the civil penalty.

\*House Amendment "B" adds the provision on power plants.

EFFECTIVE DATE: Upon passage

## **REPORTING REQUIREMENTS**

By law, a diversion is any activity that causes, allows, or results in the withdrawal from or alteration of the flow of water in the state (wells, reservoirs, watercourses, and other bodies of water). Entities that engaged in large scale diversions before July 1, 1982 had to register them with DEP by July 1, 1983 and include certain information about them. The law requires entities that began diversions after July 1, 1982 to obtain DEP permits if they withdraw more than 50,000 gallons in any 24-hour period or engaged in certain other diversions.

### ***Registrants***

This bill requires registrants whose diversions continue as of July 1, 2001 to report their current operating data. The report must provide monthly data for 1997 through 2001 on (1) actual frequency and rate of withdrawals or discharges for diversions that are metered or (2) estimates of these data for unmetered diversions. An entity that maintains a diversion solely for agricultural uses can report estimated water use for the reporting period.

These requirements do not apply to the owner or operator of a fossil fuel power plant if (1) the diversion is used to meet state or federal environmental laws and (2) the owner or operator reports to DEP an estimate of the amount of water needed in the future to comply with these laws.

### ***Entities that Didn't Register Eligible Diversions***

An entity that was eligible but failed to register a diversion that continues to be in use as of July 1, 2001, must report the same information required of registrants. In addition, it must report the information it would have had to report had it registered. This is (1) the location, capacity, frequency, and rate of withdrawal or discharges of the diversion as of July 1, 1982 and (2) a description of the water use and water system on or before this date. Finally, such entities must provide evidence that the diversion was in operation at that time.

### ***Entities that Didn't Obtain Permits***

An entity that maintains a diversion as of July 1, 2001 that was not eligible for registration and was not permitted must (1) report when the diversion began, (2) describe the water use and water system, and (3) provide the information required of registrants.

## **BACKGROUND**

### ***Legislative History***

On April 24, the House referred the original bill (File 386) to the Planning and Development Committee, which reported it without changes on April 25.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 25      Nay 3

Planning and Development Committee

Joint Favorable Report

Yea 15      Nay 2